



OMS

Advisory Circular

SUBJECT: Duration of Certificates of Conformity, Annual
Production Period, and Model Year

A. Purpose

The purpose of this advisory circular is to clarify EPA's definitions of model year, annual production period, and the duration of certificates of conformity. Advisory Circular, No. 6A is obsolete and should be discarded.

B. Background

Under the Clean Air Act of 1970, a certificate of conformity is to, be issued for a period "not in excess of one year." Advisory Circular No. 6A interpreted the phrase "one year" to mean one model year. It did not, however, define all relevant limitations governing the duration of one model year and the annual production period associated with such model year. This advisory circular clarifies the definitions of the terms "model year" and "annual production period" in relation to the coverage of certificates of conformity and to Corporate Average Fuel Economy (CAFE) calculations.

C. Applicability

The definitions provided by this advisory circular are effective immediately and apply to all light-duty vehicles and trucks, heavy-duty vehicles and engines, and motorcycles.

D. Duration of Model Year

A specific model year must always include January 1 of the calendar year for which it is designated and may not include a January 1 of any other calendar year. Thus, the maximum duration of a model year is one calendar year plus 364 days.

E. Definition of Production Period

The "annual production period" for any specific model within an engine family of light-duty vehicles or heavy-duty engines begins either: (1) when such vehicle or engine is first produced, or (2) on January 2 of the calendar year preceding the year for which the model year is designated, whichever date is later. The annual production period ends either: (1) when the last such vehicle or engine is produced, or (2) on December 31 of the calendar year for which the model year is named, whichever date is sooner.

F. Duration and Applicability of Certificates of Conformity

2. Section Act of 1970 provides that certificates of conformity may be issued for a period "not in excess of one year ." EPA regulations interpret "year" to mean "model year" (40 CFR 86.085-30(a)(2)). "Model year" is in turn defined by section 202(b)(3)(A)(i) of the Act to mean the manufacturer's annual production period. Therefore, except as provided in paragraph F.2, below, a certificate of conformity is deemed to be effective and covers the vehicles or engines named in such certificate and produced during the annual production period defined in paragraph E.

2. Section 203 of the Clean Air Act prohibits the **sale**, offering for sale, delivery for introduction into commerce, and introduction into commerce of any new vehicle **or** engine not covered by a certificate of conformity unless it is an imported vehicle exempted by the Administrator or otherwise authorized jointly by EPA and U.S. Customs service regulations.¹ However, the Act does not prohibit the production of vehicles or engines without a certificate of conformity. Vehicles or engines produced prior to the effective date of a certificate of conformity, as defined in paragraph F.1, may also be covered by the certificate if the following conditions are met:

a. The vehicles or engines conform in all respects to the vehicles or engines described in the application for the certificate of conformity.

b. The vehicles or engines are not sold, offered for sale, introduced into commerce, or delivered for introduction into commerce prior to the effective date of the certificate of conformity.

c. The Agency is notified prior to the beginning of production when such production will start, and the Agency is provided full opportunity to inspect and/or test the vehicles during and after their production. For example, the Agency must have the opportunity to conduct SEA production line testing as if the vehicles had been produced after the effective date of the certificate.

3. Vehicles or engines imported by an original equipment manufacturer after December 31 of the calendar year for which the model year is named are still covered by the certificate of

1. EPA has issued regulations that permit entry of certain imported nonconforming vehicles if they are modified to conform with emission standards even if they are not covered by certification.

conformity as long as the production of the vehicle or engine was completed before December 31 of that **year.**² (However, see CAFE consideration in Section G.)

4. Vehicles or engines produced after December 31 of the calendar year for which the model year is named are not covered by the certificate of conformity for that model year. A new certificate of conformity demonstrating compliance with currently applicable standards must be obtained for these vehicles or engines, even if they are identical to vehicles or engines built before December 31.

5. The extended coverage period described here for a certificate of conformity (i.e.; up to one year plus 364: days) is primarily intended to allow flexibility in the introduction of new models. Under no circumstances should it be interpreted that existing models may "skip" yearly certification by pulling ahead the production of every other model year. While this situation, to our knowledge, has not occurred in the past, a practice of producing vehicles for a two year period would violate Congress's intent of annual certification based upon an annual production period. EPA is not currently setting forth rules for how to determine when abuse has occurred since this has not been a problem to date. However, manufacturers should note our concern in this area and should continue to use normal yearly production periods for existing models.

G. CAFE Considerations

The Motor Vehicle and Cost Savings Act, section 501(9), does not use the concept of "introduction into commerce." Rather, it defines "manufacture" to mean "to produce or assemble in **the customs** territory of the United States, or to import. " The resultant definition of "model year" for CAFE purposes is equivalent to the definition for certification purposes for all vehicles except for those produced before December 31 of the calendar year for which the model year is named but not actually imported until after December 31 of that year. These vehicles, as discussed in paragraph F.3, are included in that model year for certification because they were produced before December 31 of that year. However, they **must** be included in the subsequent model year CAFE calculation, as they were not "manufactured" (i.e., imported) until after: the expi rat ion of that year. As an example, consider the case of a

². This section does not apply to vehicles that **may be** covered by certificates held **by** independent commercial importers unless specifically approved by EPA.

1987 model year vehicle "produced" on December 15, 1987 but not "imported" until January 21, 1988. This vehicle would still **be** covered by the 1987 certificate, as it was produced before December 31 of the calendar year for which **the model year is** named. However, it must **be** included in the 1988 model year CAFE calculations, as it was imported, and thus **"manufactured"** for CAFE purposes, after the expiration of **the** 1987 calendar year.

A handwritten signature in black ink, appearing to read "Richard D. Wilson".

Richard D. Wilson
Director, Office of Mobile Sources